

1 HOUSE BILL NO. 9

2 INTRODUCED BY S. FISHER

3 BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE GENERAL FUND SHORTFALL IN REVENUE BY
6 ~~ELIMINATING REDUCING ELIMINATING REDUCING~~ THE TRANSFER OF \$500,000 FROM THE RESOURCE
7 INDEMNITY TRUST FUND FOR WEED MANAGEMENT ~~TO \$300,000~~ TO \$300,000; TRANSFERRING \$1
8 MILLION FROM THE RESOURCE INDEMNITY TRUST FUND TO THE RECLAMATION AND DEVELOPMENT
9 GRANTS ACCOUNT; TRANSFERRING ~~\$1 MILLION~~ \$1,000 FROM THE ORPHAN SHARE FUND TO THE
10 GENERAL FUND AND TRANSFERRING AN ADDITIONAL \$999,000 FROM THE ORPHAN SHARE FUND TO
11 THE GENERAL FUND IF FUNDS ARE AVAILABLE; REVISING THE ALLOCATION OF RESOURCE
12 INDEMNITY TRUST FUND INTEREST; AMENDING SECTIONS 15-38-202, 75-10-743, AND 80-7-823, MCA,
13 SECTION 2, CHAPTER 108, LAWS OF 1997, SECTIONS 1 AND 2, CHAPTER 232, LAWS OF 2001, AND
14 SECTION 5, CHAPTER 573, LAWS OF 2001; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 NEW SECTION. SECTION 1. TRANSFER TO RECLAMATION AND DEVELOPMENT GRANTS ACCOUNT. THERE IS
19 TRANSFERRED TO THE RECLAMATION AND DEVELOPMENT GRANTS ACCOUNT, AS PROVIDED IN 90-2-1104, IN THE FISCAL
20 YEAR ENDING JUNE 30, 2003, \$1 MILLION FROM THE RESOURCE INDEMNITY TRUST FUND, AS PROVIDED IN 15-38-202,
21 FROM THE FIRST MONEY PAID INTO THE RESOURCE INDEMNITY TRUST FUND THAT EXCEEDS \$100 MILLION.

22
23 **Section 2.** Section 2, Chapter 108, Laws of 1997, is amended to read:

24 **"Section 2. Approved grant projects.** (1) The legislature approves the grants listed in subsection (2),
25 to be made in the order of priority as indicated within the following list of projects and activities. If the conditions
26 in [sections 3 and 4] are met, funds must be awarded up to the amounts approved in this section in order of
27 priority until available funds are expended. Funds not accepted by grantees or funds not used by higher-ranked
28 projects and activities must be provided for projects and activities lower on the priority list that would otherwise
29 not receive funding. Descriptions of the various projects and activities and specific conditions established for
30 each project and activity are contained within the department of natural resources and conservation reclamation

1 and development grants program report to the 55th legislature for the 1999 biennium.

2 (2) The following are the grants program prioritized projects and activities:

3 Applicant/Project	Grant Amount
4 MONTANA BOARD OF OIL AND GAS CONSERVATION	
5 Balco Disposal Facility, Plug and Abandonment	
6 and Site Restoration	\$600,000
7 NATURAL RESOURCES AND CONSERVATION, DEPARTMENT OF	
8 Reliance Refinery Soils and Sludge Cleanup #1	300,000 <u>115,548</u>
9 NATURAL RESOURCES AND CONSERVATION, DEPARTMENT OF	
10 Reliance Refinery Soils and Sludge Cleanup #2	282,300
11 ENVIRONMENTAL QUALITY - ABANDONED, DEPARTMENT OF	
12 Nancy Lee Mine Complex Reclamation	286,914
13 ENVIRONMENTAL QUALITY - ABANDONED, DEPARTMENT OF	
14 Nellie Grant Mine Reclamation Project	288,040
15 POWELL COUNTY	
16 Charter Oak Mine and Mill Reclamation	300,000
17 MILE HIGH CONSERVATION DISTRICT	
18 Highland Mill Reclamation	258,070
19 BUTTE-SILVER BOW LOCAL GOVERNMENT*	
20 Upper Clark Fork Basin: Superfund Technical Assistance	91,532
21 MONTANA BOARD OF OIL AND GAS CONSERVATION*	
22 1996 "A" Orphaned Well Plug and Abandonment	
23 and Site Restoration	164,222
24 CARBON COUNTY	
25 Dry Hydrant Demonstration Project	157,579
26 TOOLE COUNTY*	
27 North Toole County Reclamation Project	40,000
28 MONTANA BOARD OF OIL AND GAS CONSERVATION*	
29 1996 "B" Orphaned Well Plug and Abandonment	
30 and Site Restoration	0

The board of oil and gas conservation is authorized to expend remaining funds from grants to the board in this subsection (2) and remaining funds from grants previously awarded to the board to pay for the proper plugging of additional abandoned oil and gas wells. This may include funding the seven priority wells identified in the 1996 "B" orphaned well plug and abandonment project. In determining which wells to plug, abandoned wells that represent the greatest threat to the environment and public health and safety should be given priority over all others.

BUTTE-SILVER BOW LOCAL GOVERNMENT

Butte Mine Subsidence Reclamation	81,250
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ROSEBUD CONSERVATION DISTRICT

Hydrologic & Geologic Feasibility -- Coal Mine

Pits as Water Impounds	150,000
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DEER LODGE VALLEY CONSERVATION DISTRICT

Development of Acid- and Heavy Metal-Tolerant Cultivars	100,000
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(3) To the entities listed in this section, this appropriation constitutes a valid obligation of these funds for purposes of encumbering the funds within the 1999 biennium pursuant to 17-7-302.

(4) The funding provided to the grant projects in this section and identified by an asterisk (*) following the applicant's name is eligible for and may be designated for use as a nonfederal match for the federal funding acquired for the nonpoint source pollution control program administered by the department of environmental quality."

Section 3. Section 1, Chapter 232, Laws of 2001, is amended to read:

"Section 1. Appropriations for reclamation and development grants. (1) The amount of ~~\$4,100,000~~ \$3,800,000 is appropriated to the department of natural resources and conservation from the reclamation and development grants special revenue account from funds allocated for appropriation from the interest income of the resource indemnity trust fund set forth in Title 15, chapter 38.

(2) The funds appropriated in this section must be awarded by the department to the entities listed in [section 2] for the prescribed purposes and in the prescribed grant amounts, subject to the conditions provided in [sections 2 through 4]."

Section 4. Section 2, Chapter 232, Laws of 2001, is amended to read:

"Section 2. Approved grant projects. (1) The legislature approves the grants listed in subsection (2), to be made in the order of priority as indicated within the following list of projects and activities. If the conditions in [sections 3 and 4] are met, funds must be awarded up to the amounts approved in this section in order of priority until available funds are expended. Funds not accepted by grantees or funds not used by higher-ranked projects and activities must be provided for projects and activities lower on the priority list that would otherwise not receive funding. Descriptions of the various projects and activities and specific conditions established for each project and activity are contained within the department of natural resources and conservation's reclamation and development grants program report to the 57th legislature for the 2003 biennium.

(2) The following are the grants program prioritized projects and activities:

Applicant/Project	Grant Amount
BOARD OF OIL AND GAS CONSERVATION*	\$300,000
2001 Eastern District Orphaned Well Plug & Abandonment & Site Restoration	
BOARD OF OIL AND GAS CONSERVATION*	300,000
2001 Northern District Orphaned Well Plug & Abandonment & Site Restoration	
DEPARTMENT OF ENVIRONMENTAL QUALITY	300,000
Development of Trust Fund to Ensure Long-Term Water Treatment at Zortman-Landusky	
POWELL COUNTY*	300,000
Ontario Wet Tailings Reclamation	
CITY OF LEWISTOWN*	297,740
Reclamation of Brewery Flats on Big Spring Creek	
DEPARTMENT OF ENVIRONMENTAL QUALITY*	291,191
CMC Pony Mill Site Reclamation Project (completion phase)	
BROADWATER CONSERVATION DISTRICT*	145,380
Big Belt Mine Reclamation Projects	
CITY OF DEER LODGE*	140,000
Former Chicago Milwaukee Railroad Passenger Fueling Area, Deer Lodge, Montana	

1	BUTTE-SILVER BOW COUNTY	49,272
2	Upper Clark Fork Basin; Superfund Technical Assistance	
3	BOARD OF OIL AND GAS CONSERVATION	250,000
4	2001 Southern District Orphaned Well Plug & Abandonment	
5	& Site Restoration	
6	CUSTER COUNTY CONSERVATION DISTRICT*	299,977
7	Yellowstone River Resource Conservation Project	
8	CASCADE COUNTY / WEED AND MOSQUITO MANAGEMENT	218,466
9	Fort Shaw Weed Shop Soil Contamination Remediation	
10	DEPARTMENT OF ENVIRONMENTAL QUALITY*	300,000
11	Organic Soil Amendments	
12	DEPARTMENT OF ENVIRONMENTAL QUALITY*	300,000
13	Zortman Mine - Ruby Gulch Tailings Removal	
14	The state grant is subject to receipt of federal funds to complete tailings removal and stream channel	
15	restoration above, within, and below the Zortman townsite.	
16	DEPARTMENT OF ENVIRONMENTAL QUALITY	250,000
17	Coal Bed Methane Gas EIS	
18	GLACIER COUNTY*	150,000
19	2000 Glacier County Plugging & Abandonment	
20	PONDERA COUNTY*	100,000
21	Pondera County Oil & Gas Well Plug & Abandonment Project	
22	LIBERTY COUNTY*	50,000
23	Abandonment Aid Program for Small Independent Operators in	
24	Liberty, Hill, Blaine, & Chouteau Counties	
25	DEPARTMENT OF ENVIRONMENTAL QUALITY*	300,000
26	Gregory Mine Reclamation Project	
27	SHERIDAN COUNTY CONSERVATION DISTRICT	299,950
28	Protecting Natural Resources by Reclaiming Oilfield	
29	Brine Contaminated Soils	
30	DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION	272,500

1 DNRC Environmental Hazard Sites on State Land

2 FLATHEAD COUNTY

167,821

3 Assessment of Aggregate Resources for Long-Term Planning

4 in Flathead & Missoula Counties

5 (3) To the entities listed in this section, this appropriation constitutes a valid obligation of these funds
6 for purposes of encumbering the funds within the 2003 biennium pursuant to 17-7-302.

7 (4) The funding provided to the grant projects in this section and identified by an asterisk (*) following
8 the applicant's name is eligible for and may be designated for use as a nonfederal match for the federal funding
9 acquired for the nonpoint source pollution control program administered by the department of environmental
10 quality."

11
12 **Section 5.** Section 5, Chapter 573, Laws of 2001, is amended to read:

13 **"Section 5. Capital improvements.** (1) The following money is appropriated to the department of fish,
14 wildlife, and parks in the indicated amounts for the purpose of making capital improvements to statewide
15 facilities:

16 Agency/Project	LRBP	Other Funding Sources
17 Fishing Access Site Maintenance, Statewide		
	18 \$ 275,000	State Special Revenue
19 Fishing Access Site Protection, Statewide		
	20 600,000	State Special Revenue
	21 100,000	Federal Special Revenue
22 Hatchery Maintenance, Statewide		
	23 575,000	State Special Revenue
24 Future Fisheries	2,040,000	State Special Revenue
25	<u>1,860,000</u>	
26 Valier Boat Ramp	150,000	Federal Special Revenue
27 Wildlife Habitat Maintenance	750,000	State Special Revenue
28 Waterfowl Stamp Program	342,950	State Special Revenue

29 If Senate Bill No. 238 is not passed and approved, the amount listed in state special revenue for this item
30 is reduced by \$112,950.

1	Upland Game Bird Program	1,200,000	State Special Revenue
2	Cultural and Historic Parks	1,060,000	State Special Revenue
3		150,000	Federal Special Revenue
4	Motorboat Recreation	1,039,650	State Special Revenue
5	If House Bill No. 132 is not passed and approved, the amount listed in state special revenue for this item		
6	is reduced by \$285,000.		
7		505,000	Federal Special Revenue
8	Federal WB	745,000	Federal Special Revenue
9	State Park Roads	400,000	State Special Revenue
10	Capitol Complex Grounds Improvements	150,000	Capitol Land Grant Revenue
11	Federal Trails Grants	1,900,000	Federal Special Revenue
12	OHV Trails Grants	425,000	State Special Revenue
13	LWCF Grants	2,250,000	Federal Special Revenue
14	(2) The following money is appropriated to the department of military affairs in the indicated amount for		
15	the purpose of making capital improvements to statewide facilities:		
16	Agency/Project	LRBP	Other Funding Sources
17	Federal Spending Authority	\$1,500,000	Federal Special Revenue
18	(3) The following money is appropriated to the university of Montana in the indicated amounts for the		
19	purpose of making capital improvements to campus facilities:		
20	Agency/Project	LRBP	Other Funding Sources
21	Grant Projects, All Campuses	\$1,500,000	Federal, Donations, Grants
22	ADA Code/Deferred Maintenance,	1,000,000	Federal, Donations, Grants
23	All Campuses		
24	(4) The following money is appropriated to the department of transportation in the indicated amount for		
25	the purpose of making capital improvements to statewide facilities:		
26	Agency/Project	LRBP	Other Funding Sources
27	Maintenance, Repair, and Small	\$2,300,000	Highways State
28	Projects, Statewide		Special Revenue"
29			
30	Section 6. Section 15-38-202, MCA, is amended to read:		

1 **"15-38-202. (Temporary) Investment of resource indemnity trust fund -- expenditure -- minimum**

2 **balance.** (1) All money paid into the resource indemnity trust fund, including money payable into the fund under
3 the provisions of 15-36-324 and 15-37-117, must be invested at the discretion of the board of investments. Only
4 the net earnings, excluding unrealized gains and losses, may be appropriated and expended until the fund
5 balance, excluding unrealized gains and losses, reaches \$100 million. Thereafter, all net earnings, excluding
6 unrealized gains and losses, and all receipts may be appropriated by the legislature and expended, provided
7 that the fund balance, excluding unrealized gains and losses, may never be less than \$100 million.

8 (2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource
9 indemnity trust fund:

10 (i) \$240,000, which is statutorily appropriated, as provided in 17-7-502, to be deposited into the
11 renewable resource grant and loan program state special revenue account to support the operations of the
12 environmental science-water quality instructional programs at Montana state university-northern, to be used for
13 support costs, for matching funds necessary to attract additional funds to further expand statewide impact, and
14 for enhancement of the facilities related to the programs. Any amount of the appropriation in this subsection
15 (2)(a)(i) that is not pledged to repay bonds issued prior to January 1, 1999, may be deposited in a permanent
16 fund account, the income from which may be used for the purposes provided in this subsection.

17 (ii) \$2 million to be deposited into the renewable resource grant and loan program state special revenue
18 account, created by 85-1-604, for the purpose of making grants;

19 (iii) for the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, \$1.2 million
20 and for fiscal years beginning on or after July 1, 2005, \$1.5 million to be deposited into the reclamation and
21 development grants special revenue account, created by 90-2-1104, for the purpose of making grants;

22 (iv) \$300,000 to be deposited into the ground water assessment account created by 85-2-905; and

23 (v) for the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, \$350,000
24 and for fiscal years beginning on or after July 1, 2005, \$500,000 to the department of fish, wildlife, and parks
25 for the purposes of 87-1-283. The future fisheries review panel shall approve and fund qualified mineral
26 reclamation projects before other types of qualified projects.

27 (b) At the beginning of each biennium, there is allocated from the interest income of the resource
28 indemnity trust fund:

29 (i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the
30 conditions of 75-1-1101;

(ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161; and

(iii) \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(c) The remainder of the interest income is allocated as follows:

(i) ~~Thirty percent~~ FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, THROUGH THE FISCAL YEAR ENDING JUNE 30, 2005, 25.5% AND FOR FISCAL YEARS BEGINNING ON OR AFTER JULY 1, 2005, 30% of the interest income of the resource indemnity trust fund must be allocated to the renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) ~~Twenty-six percent~~ FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, THROUGH THE FISCAL YEAR ENDING JUNE 30, 2005, 22% AND FOR FISCAL YEARS BEGINNING ON OR AFTER JULY 1, 2005, 26% of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) ~~Thirty-five percent~~ FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, THROUGH THE FISCAL YEAR ENDING JUNE 30, 2005, 45% AND FOR FISCAL YEARS BEGINNING ON OR AFTER JULY 1, 2005, 35% of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

(iv) ~~Nine percent~~ FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, THROUGH THE FISCAL YEAR ENDING JUNE 30, 2005, 7.5% AND FOR FISCAL YEARS BEGINNING ON OR AFTER JULY 1, 2005, 9% of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session. (Terminates July 1, 2009--sec. 9, Ch. 529, L. 1999.)

15-38-202. (Effective July 1, 2009) Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All money paid into the resource indemnity trust fund, including money payable into the fund under the provisions of 15-36-324 and 15-37-117, must be invested at the discretion of the board of investments. Only the net earnings, excluding unrealized gains and losses, may be appropriated and expended

1 until the fund balance, excluding unrealized gains and losses, reaches \$100 million. Thereafter, all net earnings,
2 excluding unrealized gains and losses, and all receipts may be appropriated by the legislature and expended,
3 provided that the fund balance, excluding unrealized gains and losses, may never be less than \$100 million.

4 (2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource
5 indemnity trust fund:

6 (i) \$240,000, which is statutorily appropriated, as provided in 17-7-502, to be deposited into the
7 renewable resource grant and loan program state special revenue account to support the operations of the
8 environmental science-water quality instructional programs at Montana state university-northern, to be used for
9 support costs, for matching funds necessary to attract additional funds to further expand statewide impact, and
10 for enhancement of the facilities related to the programs. Any amount of the appropriation in this subsection
11 (2)(a)(i) that is not pledged to repay bonds issued prior to January 1, 1999, may be deposited in a permanent
12 fund account, the income from which may be used for the purposes provided in this subsection.

13 (ii) \$2 million to be deposited into the renewable resource grant and loan program state special revenue
14 account, created by 85-1-604, for the purpose of making grants;

15 (iii) \$1.5 million to be deposited into the reclamation and development grants special revenue account,
16 created by 90-2-1104, for the purpose of making grants; and

17 (iv) \$300,000 to be deposited into the ground water assessment account created by 85-2-905.

18 (b) At the beginning of each biennium, there is allocated from the interest income of the resource
19 indemnity trust fund:

20 (i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the
21 conditions of 75-1-1101;

22 (ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant
23 to the conditions of 82-11-161; and

24 (iii) \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

25 (c) The remainder of the interest income is allocated as follows:

26 (i) Thirty percent of the interest income of the resource indemnity trust fund must be allocated to the
27 renewable resource grant and loan program state special revenue account created by 85-1-604.

28 (ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be allocated to
29 the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

30 (iii) Thirty-five percent of the interest income from the resource indemnity trust fund must be allocated

1 to the reclamation and development grants account provided for in 90-2-1104.

2 (iv) Nine percent of the interest income of the resource indemnity trust fund must be allocated to the
3 environmental quality protection fund provided for in 75-10-704.

4 (3) Any formal budget document prepared by the legislature or the executive branch that proposes to
5 appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of
6 money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal
7 budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced
8 bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session.
9 (Terminates June 30, 2014--sec. 5, Ch. 497, L. 1999.)

10 **15-38-202. (Effective July 1, 2014) Investment of resource indemnity trust fund -- expenditure --**
11 **minimum balance.** (1) All money paid into the resource indemnity trust fund, including money payable into the
12 fund under the provisions of 15-36-324 and 15-37-117, must be invested at the discretion of the board of
13 investments. Only the net earnings, excluding unrealized gains and losses, may be appropriated and expended
14 until the fund balance, excluding unrealized gains and losses, reaches \$100 million. Thereafter, all net earnings,
15 excluding unrealized gains and losses, and all receipts may be appropriated by the legislature and expended,
16 provided that the fund balance, excluding unrealized gains and losses, may never be less than \$100 million.
17 (2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource
18 indemnity trust fund:

19 (i) \$2 million to be deposited into the renewable resource grant and loan program state special revenue
20 account, created by 85-1-604, for the purpose of making grants;

21 (ii) \$1.5 million to be deposited into the reclamation and development grants special revenue account,
22 created by 90-2-1104, for the purpose of making grants; and

23 (iii) \$300,000 to be deposited into the ground water assessment account created by 85-2-905.

24 (b) At the beginning of each biennium, there is allocated from the interest income of the resource
25 indemnity trust fund:

26 (i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the
27 conditions of 75-1-1101;

28 (ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant
29 to the conditions of 82-11-161; and

30 (iii) \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(c) The remainder of the interest income is allocated as follows:

(i) Thirty percent of the interest income of the resource indemnity trust fund must be allocated to the renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) Thirty-five percent of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

(iv) Nine percent of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session."

SECTION 7. SECTION 75-10-743, MCA, IS AMENDED TO READ:

"75-10-743. (Temporary) Orphan share state special revenue account -- reimbursement of claims -- payment of department costs. (1) There is an orphan share account in the state special revenue fund established in 17-2-102 that is to be administered by the department. Money in the account is available to the department by appropriation and must be used to reimburse remedial action costs claimed pursuant to 75-10-742 through 75-10-752 and to pay costs incurred by the department in defending the orphan share.

(2) There must be deposited in the orphan share account:

(a) money allocated from the metalliferous mines license tax pursuant to 15-37-117;

(b) all penalties assessed pursuant to 75-10-750(12);

(c) funds received from the interest income of the resource indemnity trust fund pursuant to 15-38-202;

(d) funds allocated from the resource indemnity and ground water assessment tax proceeds provided for in 15-38-106;

(e) unencumbered funds remaining in the abandoned mines state special revenue account;

(f) interest income on the account;

(g) funds received from settlements pursuant to 75-10-719(7); and

1 (h) funds received from reimbursement of the department's orphan share defense costs pursuant to
2 subsection (6).

3 (3) If the orphan share fund contains sufficient money, valid claims must be reimbursed subsequently
4 in the order in which they were received by the department. If the orphan share fund does not contain sufficient
5 money to reimburse claims for completed remedial actions, a reimbursement may not be made and the orphan
6 share fund, the department, and the state are not liable for making any reimbursement for the costs. The
7 department and the state are not liable for any penalties if the orphan share fund does not contain sufficient
8 money to reimburse claims, and interest may not accrue on outstanding claims.

9 (4) Except as provided in subsection (8), claims may not be submitted and remedial action costs may
10 not be reimbursed from the orphan share fund until all remedial actions, except for operation and maintenance,
11 are completed at a facility.

12 (5) Reimbursement from the orphan share fund must be limited to actual documented remedial action
13 costs incurred after the date of petition provided in 75-10-745. Reimbursement may not be made for attorney
14 fees, legal costs, or operation and maintenance costs.

15 (6) (a) The department's costs incurred in defending the orphan share must be paid by the persons
16 participating in the allocation under 75-10-742 through 75-10-752 in proportion to their allocated shares. The
17 orphan share fund is responsible for a portion of the department's costs incurred in defending the orphan share
18 in proportion to the orphan share's allocated share, as follows:

19 (i) If sufficient funds are available in the orphan share fund, the orphan share fund must pay the
20 department's costs incurred in defending the orphan share in proportion to the share of liability allocated to the
21 orphan share.

22 (ii) If sufficient funds are not available in the orphan share fund, persons participating in the allocation
23 under 75-10-742 through 75-10-752 shall pay all the orphan share's allocated share of the department's costs
24 incurred in defending the orphan share in proportion to each person's allocated share of liability.

25 (b) A person who pays the orphan share's proportional share of costs has a claim against the orphan
26 share fund and must be reimbursed as provided in subsection (3).

27 (7) If any money remains in the orphan share fund after June 30, 2005, and after outstanding claims
28 are paid, the money must be deposited in the general fund.

29 (8) If the lead liable person under 75-10-746 presents evidence to the department that the person
30 cannot complete the remedial actions without partial reimbursement and that a delay in reimbursement will

1 cause undue financial hardship on the person, the department may allow the submission of claims and may
2 reimburse the claims prior to the completion of all remedial actions. A person is not eligible for early
3 reimbursement unless the person is in substantial compliance with all department-approved remedial action
4 plans.

5 (9) A person participating in the allocation process who received funds under the mixed funding pilot
6 program provided for in sections 14 through 20, Chapter 584, Laws of 1995, may not claim or receive
7 reimbursement from the orphan share fund for the amount of funds received under the mixed funding pilot
8 program that are later attributed to the orphan share under the allocation process.

9 **75-10-743. (Temporary--effective July 1, 2002) Orphan share state special revenue account --**
10 **reimbursement of claims -- payment of department costs.** (1) There is an orphan share account in the state
11 special revenue fund established in 17-2-102 that is to be administered by the department. Money in the account
12 is available to the department by appropriation and must be used to reimburse remedial action costs claimed
13 pursuant to 75-10-742 through 75-10-752 and to pay costs incurred by the department in defending the orphan
14 share.

15 (2) There must be deposited in the orphan share account:

16 (a) all penalties assessed pursuant to 75-10-750(12);

17 (b) funds received from the interest income of the resource indemnity trust fund pursuant to 15-38-202;

18 (c) funds allocated from the resource indemnity and ground water assessment tax proceeds provided
19 for in 15-38-106;

20 (d) unencumbered funds remaining in the abandoned mines state special revenue account;

21 (e) interest income on the account;

22 (f) funds received from settlements pursuant to 75-10-719(7); and

23 (g) funds received from reimbursement of the department's orphan share defense costs pursuant to
24 subsection (6).

25 (3) If the orphan share fund contains sufficient money, valid claims must be reimbursed subsequently
26 in the order in which they were received by the department. If the orphan share fund does not contain sufficient
27 money to reimburse claims for completed remedial actions, a reimbursement may not be made and the orphan
28 share fund, the department, and the state are not liable for making any reimbursement for the costs. The
29 department and the state are not liable for any penalties if the orphan share fund does not contain sufficient
30 money to reimburse claims, and interest may not accrue on outstanding claims.

(4) Except as provided in subsection (8), claims may not be submitted and remedial action costs may not be reimbursed from the orphan share fund until all remedial actions, except for operation and maintenance, are completed at a facility.

(5) Reimbursement from the orphan share fund must be limited to actual documented remedial action costs incurred after the date of petition provided in 75-10-745. Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs.

(6) (a) The department's costs incurred in defending the orphan share must be paid by the persons participating in the allocation under 75-10-742 through 75-10-752 in proportion to their allocated shares. The orphan share fund is responsible for a portion of the department's costs incurred in defending the orphan share in proportion to the orphan share's allocated share, as follows:

(i) If sufficient funds are available in the orphan share fund, the orphan share fund must pay the department's costs incurred in defending the orphan share in proportion to the share of liability allocated to the orphan share.

(ii) If sufficient funds are not available in the orphan share fund, persons participating in the allocation under 75-10-742 through 75-10-752 shall pay all the orphan share's allocated share of the department's costs incurred in defending the orphan share in proportion to each person's allocated share of liability.

(b) A person who pays the orphan share's proportional share of costs has a claim against the orphan share fund and must be reimbursed as provided in subsection (3).

(7) (a) On [the effective date of this act], \$1,000 is transferred from the orphan share fund to the general fund. If sufficient money remains in the orphan share fund on June 29, 2003, \$999,000 must be transferred to the general fund.

(b) If any money remains in the orphan share fund after June 30, 2005, and after outstanding claims are paid, the money must be deposited in the general fund.

(8) If the lead liable person under 75-10-746 presents evidence to the department that the person cannot complete the remedial actions without partial reimbursement and that a delay in reimbursement will cause undue financial hardship on the person, the department may allow the submission of claims and may reimburse the claims prior to the completion of all remedial actions. A person is not eligible for early reimbursement unless the person is in substantial compliance with all department-approved remedial action plans.

(9) A person participating in the allocation process who received funds under the mixed funding pilot

1 program provided for in sections 14 through 20, Chapter 584, Laws of 1995, may not claim or receive
2 reimbursement from the orphan share fund for the amount of funds received under the mixed funding pilot
3 program that are later attributed to the orphan share under the allocation process. (Terminates June 30,
4 2005--sec. 30, Ch. 415, L. 1997.)"

5
6 **Section 8.** Section 80-7-823, MCA, is amended to read:

7 **"80-7-823. Transfer of funds.** ~~(1)(1)(1)~~ There is transferred \$100,000 annually from the highway
8 nonrestricted account, provided for in 15-70-125, to the noxious weed state special revenue account, provided
9 for in 80-7-816, for the purposes provided in 80-7-705.

10 ~~(2) There is a one-time transfer in fiscal year 2003 of up to \$500,000 from the resource indemnity trust~~
11 ~~fund, as provided in 15-38-202, from the first money paid into the resource indemnity trust fund that exceeds~~
12 ~~\$100 million for the purposes provided in 80-7-705.~~

13 ~~(2) THERE IS A ONE-TIME TRANSFER IN FISCAL YEAR 2003 OF UP TO \$300,000 FROM THE RESOURCE INDEMNITY~~
14 ~~TRUST FUND, AS PROVIDED IN 15-38-202, FROM THE FIRST MONEY PAID INTO THE RESOURCE INDEMNITY TRUST FUND~~
15 ~~THAT EXCEEDS \$100 MILLION FOR THE PURPOSES PROVIDED IN 80-7-705.~~

16 ~~(2) THERE IS A ONE-TIME TRANSFER IN FISCAL YEAR 2003 OF UP TO \$300,000 FROM THE RESOURCE INDEMNITY~~
17 ~~TRUST FUND, AS PROVIDED IN 15-38-202, FROM THE FIRST MONEY PAID INTO THE RESOURCE INDEMNITY TRUST FUND~~
18 ~~THAT EXCEEDS \$100 MILLION FOR THE PURPOSES PROVIDED IN 80-7-705."~~

19
20 NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

21 - END -